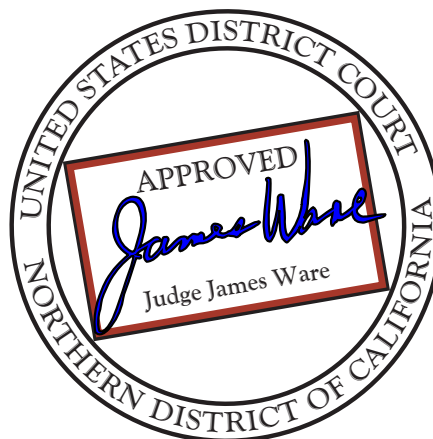


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Attorneys for Plaintiff
CIVITAF CORPORATION



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CIVITAF CORPORATION, a California
corporation,
Plaintiff,
v.
FEDERATED MUTUAL INSURANCE
COMPANY, a Minnesota corporation;
FRONTIER INSURANCE COMPANY, a
New York corporation and DOES 1
through 20, inclusive,
Defendants.

Case No.: CV-05-00595-JW

JOINT EX PARTE APPLICATION FOR
EXTENSION OF PRE-TRIAL DEADLINES;
DECLARATION OF KRISTEN E. GREEN;
ORDER.

Date: No Hearing
Time: No Hearing
Courtroom.:8
HONORABLE JAMES WARE

JOINT EX PARTE APPLICATION

Plaintiff Civitaf Corporation and Defendant Federated Mutual Insurance Company jointly request that the Court enter an order pursuant to Fed.R.Civ.P. 6(a) extending by 2 days the deadlines for rebuttal expert-witness disclosures and extending by 30 days the deadlines to file motions to exclude all or part of an expert witness's testimony, to conduct discovery, to conduct expert discovery, to hear dispositive motions, to hear motions to exclude all or part of an expert's testimony, to lodge Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order and the Preliminary Pre-Trial and Trial Setting Conference. The bases for the request are

as follows:

1. Fed.R.Civ.P. 6(a) states that when, by order of court, “an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion . . . with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed . . .” Under the Court’s August 9, 2005, scheduling order, the current deadlines are as follows:

December 13, 2005	Rebuttal expert-witness disclosures.
January 17, 2006	Last day to hear motions to exclude all or part of an expert’s testimony.
January 20, 2006	Last day to conduct discovery, including discovery of expert witnesses.
February 27, 2006	Last day to hear dispositive motions.
March 30, 2006	Last day to lodge Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order.
April 10, 2006	Preliminary Pretrial and Trial Setting Conference.

Because none of these deadlines has passed, the Court is authorized to grant the extensions of the deadlines in the scheduling order upon ex parte application. N.D. Cal. L.R. 7-10.

2. In this insurance-coverage action, Civitaf seeks defense and indemnification from Federated in connection with Civitaf’s alleged liability in an underlying construction-defect lawsuit styled *Amica Mut. Ins. Co. v. Civitaf Corp. et al.*, filed in Santa Clara County Superior Court (No. 1-04-CV-017010). Civitaf and Federated are both parties to the *Amica* action.

3. A global mediation was conducted in the *Amica* action on November 17, 2005. The *Amica* action was not settled at the mediation. In order to prevent the expenditure of resources on pre-trial activities that may have been unnecessary following the global mediation in the *Amica* action, Civitaf and Federated withheld from conducting any discovery, including depositions of percipient witnesses. As the schedule currently stands, dispositive motions are due three days after the close of discovery. Furthermore, discovery in the underlying *Amica* action is only just beginning, discovery in the underlying action will save time and resources in

1 this action. Civitaf and Federated respectfully request that the Court extend by 30 days the
2 deadlines to file motions to exclude all or part of an expert witness's testimony, to conduct
3 discovery, to conduct expert discovery, to hear dispositive motions, to hear motions to exclude
4 all or part of an expert's testimony, to lodge Preliminary Pretrial and Trial Setting Conference
5 Statement and Proposed Order and the Preliminary Pre-Trial and Trial Setting Conference.

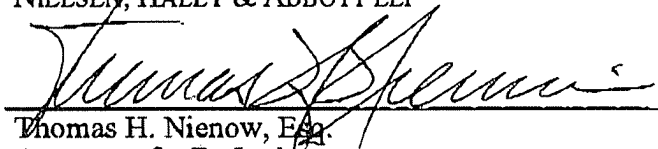
6 4. The following deadlines in the Court's August 9, 2005, order will remain
7 unchanged:

8 December 15, 2005 Last day to complete mediation.

9
10 Respectfully submitted,
11 NIELSEN, HALEY & ABBOTT LLP

12 December 14, 2005

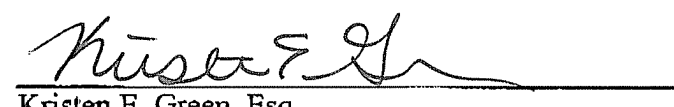
13 By:

14 
15 Thomas H. Nienow, Esq.
16 Attorneys for Defendant
17 FEDERATED MUTUAL INSURANCE COMPANY

18 Respectfully submitted,
19 SWEENEY, MASON, WILSON & BOSOMWORTH

20 December 14, 2005

21 By:

22 
23 Kristen E. Green, Esq.
24 Attorneys for Plaintiff
25 CIVITAF CORPORATION

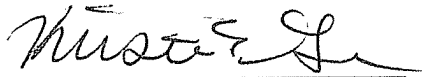
26 **DECLARATION OF KRISTEN E. GREEN**

27 I, Kristen E. Green, declare as follows:

28 I am an attorney admitted to practice before this Court, and I am an associate with
Sweeney Mason, Wilson & Bosomworth, counsel of record for plaintiff Civitaf Corporation in
this action. The facts stated in the above Joint Ex Parte Application are true and correct.

///

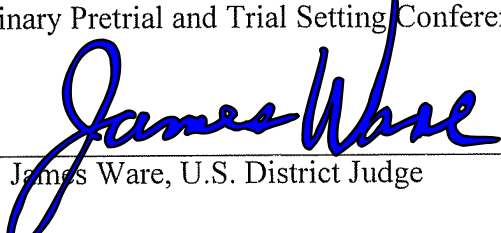
Executed under penalty of perjury under the laws of the United States on December 14, 2005, at Los Gatos, California.


Kristen E. Green, Esq.

ORDER

The Court, having read the above Joint Ex Parte Application for Extension of rebuttal expert-witness disclosures, deadlines to file motions to exclude all or part of an expert witness's testimony, to conduct discovery, to conduct expert discovery, to hear dispositive motions, to hear motions to exclude all or part of an expert's testimony, to lodge Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order and Preliminary Pre-Trial and Trial Setting Conference, and good cause appearing, hereby grants the joint application and extends each deadline as requested in the application. The remaining deadlines set forth in the Court's November 9, 2005, order shall remain unchanged. The pre-trial deadlines in this matter are now as follows:

December 15, 2005	Rebuttal expert-witness disclosures.
December 15, 2005	Last day to complete mediation.
February 20, 2006	Last day to conduct discovery, including discovery of expert witnesses.
March 2, 2006	Last day to hear motions to exclude all or part of an expert's testimony.
03/27/06 @ 9am	
March 29 , 2006	Last day to hear dispositive motions.
May 1, 2006	Last day to lodge Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order.
05/08/06 @ 11am	
May 10 , 2006	Preliminary Pretrial and Trial Setting Conference.
January 11, 2006	
Dated: December ____, 2005	


James Ware, U.S. District Judge